

SENATE, No. 539

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

**Senators Bateman, Kyrillos, Beck, Ciesla, Stack, Weinberg, Vitale,
Girgenti, Turner, Whelan, Lesniak and S.Kean**

SYNOPSIS

Establishes crimes of dog fighting and leader of a dog fighting network;
amends RICO to add leader of a dog fighting network.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/30/2011)

1 AN ACT concerning animal fighting, supplementing chapter 33 of
2 Title 2C and amending N.J.S.2C:41-1 and R.S.4:22-24.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) a. A person is guilty of dog fighting if that
8 person knowingly:

9 (1) keeps, uses, is connected with or interested in the
10 management of, or receives money for the admission of a person
11 to, a place kept or used for the purpose of fighting or baiting a dog;

12 (2) owns, possesses, keeps, trains, promotes, purchases, breeds
13 or sells a dog for the purpose of fighting or baiting that dog;

14 (3) for amusement or gain, causes, allows, or permits the fighting
15 or baiting of a dog;

16 (4) permits or suffers a place owned or controlled by that person
17 to be used for the purpose of fighting or baiting a dog;

18 (5) is present and witnesses, pays admission to, encourages or
19 assists in the fighting or baiting of a dog; or

20 (6) gambles on the outcome of a fight involving a dog.

21 Dog fighting is a crime of the third degree.

22 b. In addition to any other penalty imposed, the court shall order
23 the seizure and forfeiture of any dogs used for fighting or baiting,
24 and may upon request of the prosecutor or on its own motion, order
25 any person convicted of a violation under this section to forfeit
26 possession of: (1) any other animals in the person's custody or
27 possession; and (2) any other property involved in or related to a
28 violation of this act. The court may prohibit any such person from
29 having future possession or custody of any animal for any period of
30 time the court deems reasonable, including a permanent prohibition.

31 c. For the purposes of this section "bait" means to attack with
32 violence, to provoke, or to harass a dog with one or more dogs for
33 the purpose of training the dog for, or to cause a dog to engage in, a
34 fight with or among other dogs.

35

36 2. (New section) a. A person is a leader of a dog fighting
37 network if he conspires with others in a scheme or course of
38 conduct to unlawfully engage in dog fighting, as defined in section
39 1 of P.L. , c. (C.) (now pending before the Legislature as
40 section 1 of this bill), as an organizer, supervisor, financier or
41 manager of at least one other person. Leader of a dog fighting
42 network is a crime of the second degree.

43 "Financier" means a person who, with the intent to derive a
44 profit, provides money or credit or other thing of value in order to
45 finance the operations of dog fighting.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. In addition to any other penalty imposed, the court shall order
2 the seizure and forfeiture of any dogs used for fighting or baiting,
3 and may upon request of the prosecutor or on its own motion, order
4 any person convicted of a violation under this section to forfeit
5 possession of: (1) any other animals in the person's custody or
6 possession; and (2) any other property involved in or related to a
7 violation of this act. The court may prohibit any such person from
8 having future possession or custody of any animal for any period of
9 time the court deems reasonable, including a permanent prohibition.

10 c. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction
11 of leader of a dog fighting network shall not merge with the
12 conviction for any offense, nor shall such other conviction merge
13 with a conviction under this section, which is the object of the
14 conspiracy. Nothing contained in this section shall prohibit the
15 court from imposing an extended term pursuant to N.J.S.2C:43-7;
16 nor shall this section be construed in any way to preclude or limit
17 the prosecution or conviction of any person for conspiracy under
18 N.J.S.2C:5-2, or any prosecution or conviction under N.J.S.2C:41-1
19 et seq. (racketeering activities) or subsection g. of N.J.S.2C:5-2
20 (leader of organized crime) or any prosecution or conviction for any
21 such offense.

22 d. It shall not be necessary in any prosecution under this section
23 for the State to prove that any intended profit was actually realized.
24 The trier of fact may infer that a particular scheme or course of
25 conduct was undertaken for profit from all of the attendant
26 circumstances, including but not limited to the number of persons
27 involved in the scheme or course of conduct, the actor's net worth
28 and his expenditures in relation to his legitimate sources of income,
29 or the amount of cash or currency involved.

30 e. It shall not be a defense to a prosecution under this section that
31 the dog intended to be used for fighting was brought into or
32 transported in this State solely for ultimate distribution or sale in
33 another jurisdiction.

34 f. It shall not be a defense that the defendant was subject to the
35 supervision or management of another, nor that another person or
36 persons were also leaders of a dog fighting network.

37
38 3. N.J.S.2C:41-1 is amended to read as follows:

39 2C:41-1. For purposes of this section and N.J.S.2C:41-2 through
40 N.J.S.2C:41-6:

41 a. "Racketeering activity" means (1) any of the following
42 crimes which are crimes under the laws of New Jersey or are
43 equivalent crimes under the laws of any other jurisdiction:

- 44 (a) murder
45 (b) kidnapping
46 (c) gambling
47 (d) promoting prostitution

- 1 (e) obscenity
- 2 (f) robbery
- 3 (g) bribery
- 4 (h) extortion
- 5 (i) criminal usury
- 6 (j) violations of Title 33 of the Revised Statutes
- 7 (k) violations of Title 54A of the New Jersey Statutes and Title
- 8 54 of the Revised Statutes
- 9 (l) arson
- 10 (m) burglary
- 11 (n) theft and all crimes defined in chapter 20 of Title 2C of the
- 12 New Jersey Statutes
- 13 (o) forgery and fraudulent practices and all crimes defined in
- 14 chapter 21 of Title 2C of the New Jersey Statutes
- 15 (p) fraud in the offering, sale or purchase of securities
- 16 (q) alteration of motor vehicle identification numbers
- 17 (r) unlawful manufacture, purchase, use or transfer of firearms
- 18 (s) unlawful possession or use of destructive devices or
- 19 explosives
- 20 (t) violation of sections 112 through 116 inclusive of the
- 21 "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-
- 22 116)
- 23 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
- 24 and all crimes involving illegal distribution of a controlled
- 25 dangerous substance or controlled substance analog, except
- 26 possession of less than one ounce of marijuana
- 27 (v) violation of subsection b. of N.J.S.2C:24-4 except for
- 28 subparagraph (b) of paragraph (5) of subsection b.
- 29 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16),
- 30 leader of firearms trafficking network
- 31 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
- 32 weapons training for illegal activities
- 33 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2),
- 34 terrorism
- 35 (z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human
- 36 trafficking
- 37 (aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing
- 38 conduct
- 39 (bb) violation of N.J.S.2C:12-3, terroristic threats
- 40 (cc) violation of section 2 of P.L. , c. (C.) (now pending
- 41 before the Legislature as section 2 of this bill), leader of dog
- 42 fighting network
- 43 (2) any conduct defined as "racketeering activity" under Title
- 44 18, U.S.C.s.1961(1)(A), (B) and (D).
- 45 b. "Person" includes any individual or entity or enterprise as
- 46 defined herein holding or capable of holding a legal or beneficial
- 47 interest in property.

1 c. "Enterprise" includes any individual, sole proprietorship,
2 partnership, corporation, business or charitable trust, association, or
3 other legal entity, any union or group of individuals associated in
4 fact although not a legal entity, and it includes illicit as well as licit
5 enterprises and governmental as well as other entities.

6 d. "Pattern of racketeering activity" requires:

7 (1) Engaging in at least two incidents of racketeering conduct
8 one of which shall have occurred after the effective date of this act
9 and the last of which shall have occurred within 10 years (excluding
10 any period of imprisonment) after a prior incident of racketeering
11 activity; and

12 (2) A showing that the incidents of racketeering activity
13 embrace criminal conduct that has either the same or similar
14 purposes, results, participants or victims or methods of commission
15 or are otherwise interrelated by distinguishing characteristics and
16 are not isolated incidents.

17 e. "Unlawful debt" means a debt:

18 (1) Which was incurred or contracted in gambling activity
19 which was in violation of the law of the United States, a state or
20 political subdivision thereof; or

21 (2) Which is unenforceable under state or federal law in whole
22 or in part as to principal or interest because of the laws relating to
23 usury.

24 f. "Documentary material" includes any book, paper,
25 document, writing, drawing, graph, chart, photograph, phonorecord,
26 magnetic or recording or video tape, computer printout, other data
27 compilation from which information can be obtained or from which
28 information can be translated into useable form or other tangible
29 item.

30 g. "Attorney General" includes the Attorney General of New
31 Jersey, his assistants and deputies. The term shall also include a
32 county prosecutor or his designated assistant prosecutor if a county
33 prosecutor is expressly authorized in writing by the Attorney
34 General to carry out the powers conferred on the Attorney General
35 by this chapter.

36 h. "Trade or commerce" shall include all economic activity
37 involving or relating to any commodity or service.

38 (cf: P.L.2007, c.341, s.4)

39
40 4. R.S.4:22-24 is amended to read as follows:

41 4:22-24. A person who shall:

42 a. Keep, use, be connected with or interested in the management
43 of, or receive money for the admission of a person to, a place kept
44 or used for the purpose of fighting or baiting a living animal or
45 creature;

46 b. Be present and witness, pay admission to, encourage or assist
47 therein;

1 c. Permit or suffer a place owned or controlled by him to be so
2 used;

3 d. For amusement or gain, cause, allow, or permit the fighting or
4 baiting of a living animal or creature;

5 e. Own, possess, keep, train, promote, purchase, or knowingly
6 sell a living animal or creature for the purpose of fighting or baiting
7 that animal or creature; or

8 f. Gamble on the outcome of a fight involving a living animal or
9 creature--

10 Shall be guilty of a crime of the third degree.

11 For the purposes of this section "bait" means to attack with
12 violence, to provoke, or to harass an animal with one or more
13 animas for the purpose of training the animal for, or to cause an
14 animal to engage in, a fight with or among other animals.

15 (cf: P.L.1989, c.35, s.1)

16
17 5. This act shall take effect immediately.

18
19
20 STATEMENT

21
22 This bill would establish the new crimes of dog fighting and
23 leader of a dog fighting network. Currently, N.J.S.A.4:22-24
24 prohibits animal fighting in general. This bill would also add the
25 crime of leader of a dog fighting network to the list of offenses
26 considered "racketeering activity" under New Jersey's anti-
27 racketeering law (RICO).

28 A person would be guilty of dog fighting if he knowingly: (1)
29 keeps, uses, or is connected with or interested in the management
30 of, or receives money for the admission of a person to, a place kept
31 or used for the purpose of fighting or baiting an dog; (2) owns,
32 possesses, keeps, trains, promotes, purchases, breeds or sells a dog
33 for the purpose of fighting or baiting that dog; (3) for amusement or
34 gain, causes, allows, or permits the fighting or baiting of a dog; (4)
35 permits or suffers a place owned or controlled by that person to be
36 used for the purpose of fighting or baiting a dog; (5) is present and
37 witnesses, pays admission to, encourages or assists in the fighting
38 or baiting of a dog; or (6) gambles on the outcome of a fight
39 involving a dog. Dog fighting would be a crime of the third degree.
40 A crime of the third degree is punishable by a term of imprisonment
41 of three to five years or a fine of up to \$15,000, or both.

42 This bill would also require the court to order the seizure and
43 forfeiture of any dogs used for dog fighting or baiting. The bill
44 would also permit, in certain circumstances, the court to seize other
45 animals or property in the person's possession, and prohibit the
46 person from possessing animals in the future.

1 A person would be guilty of leader of a dog fighting network
2 offense if he conspires with others in a scheme or course of conduct
3 to unlawfully engage in dog fighting as an organizer, supervisor,
4 financier or manager of at least one other person. "Financier"
5 would mean a person who, with the intent to derive a profit,
6 provides money or credit or other thing of value in order to finance
7 the operations of dog fighting. Leader of a dog fighting network
8 would be a crime of the second degree. A crime of the second
9 degree is punishable by a term of imprisonment of five to ten years
10 or a fine of up to \$150,000, or both.

11 Under this bill "bait" would mean to attack with violence, to
12 provoke, or to harass a dog with one or more dogs for the purpose
13 of training the dog for, or to cause a dog to engage in, a fight with
14 or among other dogs.

15 The bill would also amend R.S.4:22-24, the statute concerning
16 animal fighting in general, to include a similar definition of "bait"
17 applicable to all animal baiting. This definition would be added to
18 provide consistency in the statutes.

19 The bill also provides that, notwithstanding the provisions of
20 N.J.S.2C:1-8, a conviction of leader of a dog fighting network
21 would not merge with the conviction for any offense which is the
22 object of the conspiracy. The bill further provides that it would not
23 be a defense to a prosecution under this bill that the dog intended to
24 be used for fighting was brought into or transported in this State
25 solely for ultimate distribution or sale in another jurisdiction; nor
26 would it be a defense that any profit was intended to be made in
27 another jurisdiction.

28 Adding leader of a dog fighting network to the list of predicate
29 offenses triggering the State's anti-racketeering law targets the
30 leaders of organizations that unlawfully breed, train, or sell dogs
31 intended to be used for dog fighting.